

REMARKS

Claims 57-59, 62-66 and 74 were pending prior to this Response. By the present communication, no claims have been added or canceled, and claims 57 and 74 have been amended to recite Applicant's invention with greater particularity. The amendments do not raise any issues of new matter and the amended claims do not present new issues requiring further consideration or search, being fully supported by the Specification and original claims. Accordingly, claims 57-59, 62-66 and 74 are currently pending in this application.

Rejection Under 35 U.S.C. § 102

Applicants respectfully traverse the rejection of claims 57-59, 62, 66 and 74 under 35 U.S.C. 102(b) as allegedly anticipated by Kurzik-Dumke, WO 98/32772. However, in order to reduce the issues and further prosecution, Applicants have amended claims 57 and 74 to delete SEQ ID NO: 19, rendering the rejection moot.

A *prima facie* rejection of a claim for anticipation requires that the cited reference describe, explicitly or inherently, all of the elements of the rejected claim. Applicants submit that Kurzik-Dumke does not anticipate the claimed invention since the amended claims no longer include SEQ ID NO: 19. Accordingly, withdrawal of the rejection is respectfully requested.

Rejection Under 35 U.S.C. § 103

Applicants respectfully traverse the rejection of claims 57, 59 and 62-65 under 35 U.S.C. 103(a) as allegedly being unpatentable over Kurzik-Dumke in view of Pillai et al., U.S. Patent No. 5,334,379 (hereinafter "Pillai"). However, in order to reduce the issues and further prosecution, Applicants have amended claims 57 and 74 to delete SEQ ID NO: 19. As indicated by the Examiner, Kurzik-Dumke discloses the peptide consisting of SEQ ID NO: 19 of the instant specification and its use in immunizing animals to obtain polyclonal antibodies. The peptide is taught as being linked to the carrier protein hemocyanin to form a chimeric polypeptide that is present in a pharmaceutical composition. Kurzik-Dumke is absolutely silent with regard to SEQ ID NOS: 1 to 18 and 20 to 26.

Applicants submit that Pillai does not cure the deficiencies in Kurzik-Dumke for describing the claimed invention. As indicated by the Examiner, Pillai teaches compositions comprising cytokines as immunoadjuvants. Pillai is absolutely silent with regard to SEQ ID NOS: 1 to 18 and 20 to 26. Accordingly, one of skill in the art, would not have been motivated to utilize any of SEQ ID NOS: 1 to 18 and 20 to 26, in view of Kurzik-Dumke and Pillai, to arrive at the claimed invention. Applicants respectfully request withdrawal of the rejection.

CONCLUSION

In view of the amendments and above remarks, it is submitted that the claims are in condition for allowance, and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicant's undersigned representative if there are any questions relating to this application.

In re Application of:

Albani et al.

Application No.: 10/001,938

Filed: October 31, 2001

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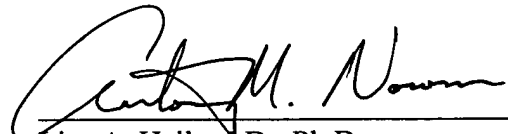
PATENT

Attorney Docket No.: UCSD1360-1

Check No. 581434 is enclosed in the amount of \$60.00 for the One-Month Petition for Extension of Time. The Commissioner is hereby authorized to charge any other fees that may be required by this paper or credit any overpayment to Deposit Account No. 07-1896 referencing the above-identified attorney docket number. A duplicate copy of this Transmittal Sheet is enclosed.

Respectfully submitted,

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